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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/034,436	12/27/2001	John Thomas Aylward	34976/238448	2496

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EXAMINER

DESAI, HEMANT

ART UNIT	PAPER NUMBER
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3721

DATE MAILED: 05/09/2003

7

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Applicant(s)

10/034,436

Applicant(s)

AYLWARD ET AL.

Examiner

Hemant M Desai

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 December 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1-7 are rejected under 35 U.S.C. 102(e) as being anticipated by Amborn et al. (6311462).

Amborn et al. Disclose an assembly for handling and packaging pharmaceutical dosage forms, including an infeed structure (22, fig. 1) for accepting a series of dosage forms including a surface (10, fig. 2) movable in a downstream direction (11, fig. 2), a laning structure (35, fig. 4) defining a plurality of lanes (40, fig. 4) extending in the downstream direction and having a downstream end (38, fig. 4), and a plenum structure (32, fig. 4) extending from the infeed structure (22) to the laning structure (35) including a guide portion (25, fig. 2) for guiding dosage forms carried by the surface into the laning structure, a form handling device (38, fig. 4) for receiving dosage forms and transporting dosage forms from the laning structure to a packaging device (90, fig. 4A), a dump gate (80, fig. 4) having a closed position wherein the dump gate blocks the lanes at the downstream ends thereof, whereby dosage forms will accumulate in the lanes when the dump gate is in the closed position and an open position in which said dump gate does not block the lanes, and a time controller for opening the dump gate after the handling device receives dosage forms whereby debris will be carried downstream out of the laning structure after the form handling device receives dosage forms

from the laniag structure (see col. 7, lines 20-28), which meets all the claimed limitations.

Regarding claim 2, the timed controller further comprises a computer communicating with the form handling device and the dump gate (see col. 6, lines 20-30).

Regarding claim 3, the assembly further comprising a guide wall structure (14, fig. 5) defining the guide portion (25) and including a curved portion (45, fig. 3).

Regarding claim 4, the guide wall structure (14) also defines the plenum structure (32), the plenum structure including a plenum entry (28, fig. 4) and the guide wall structure being shaped to guide dosage forms so that dosage forms enter the plenum structure at the plenum entry adjacent a first side of the laning structure (35, fig. 4) and travel in a lateral direction transverse to the downstream direction toward a second side (47, fig. 4) of the laning structure before entering the lanes.

Regarding claims 5 and 6, the curved portion includes a movable member (60, fig. 10) and a biasing means (73, fig. 11) for vibrating it for reliving jamming of dosage forms.

Regarding claim 7, the laning structure (35) includes a surface for supporting the dosage forms slopping in the downstream direction to the dump gate (80) so that debris is carried out of the lannig structure (see col. 5, lines 63-66).

### ***Conclusion***

2. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Art Unit: 3721

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hemant M Desai whose telephone number is (703) 308-5830. The examiner can normally be reached on 7:00 AM-5: 30 PM, Mon-Thurs..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached on (703) 308-2187. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3576.

Hemant M Desai  
Examiner  
Art Unit 3721

HMD  
May 1, 2003

A handwritten signature in black ink, appearing to read "Rinaldi Rada", with a long horizontal flourish extending to the right.

Rinaldi I. Rada  
Supervisory Patent Examiner  
Group 3700